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THE FUTURE OF THE INSANITY DEFENSE: INCORPORATING MODERN PSYCHIATRIC UNDERSTANDING INTO LEGAL FRAMEWORKS

Aarushi Gupta

Research Scholars Program, Harvard Student Agencies, In collaboration with Learn with Leaders

ABSTRACT

Rex v. Arnold (1724) states that to avail the defense of insanity, the defense must hold itself to the statement, "A man must be totally deprived of his understanding and memory, so as not to know what he is doing, no more than an infant, a brute, or a wild beast." Thus, the insanity defense was established in the early eighteenth century, based on the 'wild beast' rules.

In the following centuries, developing an understanding of psychology led to many other standards and tests being established, like the M'Naghten rules, the "Irresistible Impulse" test, the Durham test, the Modern Penal Code test, etc. They all held vastly different definitions of legal insanity, influenced by variables like the defendant's cognizant ability to distinguish right from wrong and their volitional ability to control their actions. The theory of free will has also raised questions on the legal assessment of the defendant's legal responsibility.

The inadequacy of current legal frameworks in addressing mental illness has led me to an examination of the historical evolution of legal tests for insanity, highlighting discrepancies between legal definitions and psychiatric understanding of mental illness pertaining to the ongoing struggle in balancing the court's duty to the defendants in offering them fair treatment with their duty to ensure public safety.

KEYWORDS: M'Naghten Rules, Modern Penal Code Test, Mental Illness, Insanity, Irresistible Impulse, Durham Test, Psychologists, Psychiatrists

THESIS

Existing legal frameworks, particularly the M'Naghten rule, are inadequate and should be reformed to better reflect modern understandings of mental illness and criminal responsibility. Such reforms should incorporate aspects of diminished responsibility and consider volitional control as well as cognition. The current system is hampered by a number of interconnected problems that could be addressed with appropriate reforms, some of which have already been implemented elsewhere (Arakeri, 2020).

INTRODUCTION

The M'Naghten rule, with its narrow focus on cognitive understanding, fails to account for the complexities of mental illness and its impact on an individual's volitional control. This creates a situation where individuals with severe mental disorders may be held criminally responsible, even when their capacity to control their actions is significantly impaired. A shift toward more comprehensive legal standards is necessary moving forward.

LITERATURE REVIEW

Background

The insanity defense has been a controversial topic throughout its history. Its early applications began with ancient Jewish laws that differentiated the criminal responsibility of those with a sound mind from those without (Harrison, 2019). Early English common law also recognized insanity as a viable defense against criminal charges. By 1581, it was established within the law that "if a madman or a natural fool, or a lunatic in the time of his lunacy" kills someone, they cannot be held accountable (Asokan, 2016).

The case of Rex v. Arnold was an important one for the insanity defense, as it brought forth the "wild beast rules." This test required a complete lack of understanding and memory of the criminal offense committed to be totally unaware of his/her actions (Zeifert, 1957).

In 1843, the case of Queen v. M'Naghten was especially influential in the growth of the insanity defense. After several medical professionals' testimonies believing Daniel M'Naghten to be completely insane and suffering from paranoid delusions, the judge stopped the trial, and the jury brought up a special verdict where M'Naghten was forcibly admitted to the Bethlem Hospital (Math, 2015).

After this, the M'Naghten rules were brought into effect. These rules are based on the assumption of sanity, where everyone possesses some degree of reason unless proven otherwise. To form a defense based on insanity, it must be proved that the defendant had some "defect of reason" due to "illness of the mind." This defect must then be proven to have led to one of two conditions: either a lack of understanding of the act, essentially the nature and quality of the act being committed, or a lack of awareness of the wrongfulness of the act, which may

be a moral or legal lack of awareness (Posts, 2022). It is upon the jury to decide if the defendant was suffering from insanity during the time the act was committed or not and provide a fair judgment (Asokan, 2016).

The M'Naghten rules form a judgment based on the cognitive ability of the defendant during the duration of the crime. The biggest criticism of the M'Naghten rules is the complete disregard of someone's inability to control their actions due to mental illness (Posts, 2022).

To move past the limitations of the M'Naghten rules, several alternative tests were established. One such test was the "irresistible impulse" test, which was proposed to assess whether the defendant's mental illness may have prevented him/her from refraining from their actions and whether they understood the moral or legal implications of such. This test, however, was criticized for having an overly broad scope (Asokan, 2016).

The Durham Test was another attempt at an alternative legal method to determine insanity. It stated that the accused is not legally responsible for their criminal act if it was a product of their mental defect. However, due to its nature, this rule led to criminals with any kind of mental illness pleading insanity. It was concluded that this wasn't an effective way to structure the insanity defense (Harrison, 2019).

The Modern Penal Code test was developed as a bridge between the broader Durham Test and the stricter M'Naghten rules by combining both cognitive and volitional elements in its design. It says that a defendant is not responsible if they lack the capacity to appreciate the wrongfulness of their conduct or conform it to the law. In Durham, the Brawner test was adopted as a variation of the Modern Penal Code test in 1972 (Harrison, 2019).

In 1982, following the acquittal of President Reagan's shooter, John Hinckley Jr., there was mass public outrage. This led to immense changes in the framework of the laws regarding the insanity defense (Harrison, 2019). The Insanity Defense Reform Act (IDRA) of 1984 was passed through federal law. This was a harsher version of the M'Naghten rules. It also pushed the burden of proof onto the defendant (Perlin, 1997). Following this, many states adopted the 'guilty but mentally ill' (GBMI) verdict (Harrison, 2019). Furthermore, some states only allowed the negation of criminal intent (*mens rea*) from mental health-related evidence (Math, 2015).

The Framework

In the USA, the abolition of the insanity defense in some states has led to doubts about the legal system and whether it violates due process by taking the rights of the defendants to argue for their lack of criminal responsibility due to mental health. Currently, there are four states in the USA that still prohibit the accused from forming a defense based on insanity (Harrison, 2019).

India's position on the insanity defense is primarily based on the M'Naghten rules. They are laid out in Section 84 of the Indian Penal Code (IPC). Interestingly, the term "unsoundness of mind" is used in place of the word "insanity" in the written law itself (Arakeri, 2020). According to Section 84 of the IPC, an act is not considered an offense if it is committed by a person who, "at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law" (Math, 2015). This provision focuses on the cognitive incapacity of the defendant to either be unable to understand the nature of the act or be unable to know right or wrong. The Indian Law makes a clear distinction between medical insanity and legal insanity, and the court focuses on the legal aspect of it, meaning that mental illness alone is not enough to qualify for an insanity defense. The burden of proof lies with the defendant, and the "irresistible impulse" qualification is considered invalid in the Indian court, as it does not concern itself with the defendant's loss of control, even if the cause is mental illness (Arakeri, 2020). Additionally, the principle of "Furiosi nulla voluntas est," which translates to "a person with mental illness has no free will," is also acknowledged in the defense of insanity (Math, 2015).

The Battle of the Experts

The phenomenon of the "Battle of the Experts" is used in a legal setting where two psychologists or psychiatrists give conflicting testimonies from opposite sides. This phenomenon is often present in cases where the insanity defense is used (Zeifert, 1957). Experts on both sides of a case (prosecution and defense) may present differing opinions, diagnoses, and interpretations of the defendant's mental state. They may be asked hypothetical questions that can take hours to read and are expected to provide clear and sensible answers immediately. This can often be misleading or confusing to the jury (Zeifert, 1957).

Psychiatrists may have to compress their knowledge to present it in a legal manner, which often results in "scientific nonsense." The artificial "right and wrong" tests used in the proceedings of an insanity defense may put psychologists in a position of acting as experts in morality (Zeifert, 1957).

Assessing a defendant's past mental state often becomes a "story" rather than an objective description. This can lead to expert testimonies becoming open to interpretation rather than objective studies of a person's mental state at a particular point in time (Asokan, 2016).

This miscommunication leads to a perception of conflict between legal and psychiatric professionals (Zeifert, 1957). It also contributes to the public skepticism in the insanity defense, with many viewing it as a "loophole" (Perlin, 1997).

One of the suggested solutions to mitigate these issues is a court-appointed panel of psychiatrists/psychologists, where experts refuse to testify for either side and instead act in a purely objective way in favor of the court itself. Furthermore, there is an even bigger need to increase training for lawyers and psychiatrists and abolish this "Battle of the Experts" (Zeifert, 1957).

METHODOLOGY

This research paper employs a secondary qualitative methodology to investigate the historical evolution and reform needs of the insanity defense in various legal systems. Secondary sources, including peer-reviewed articles, legal documents, and scholarly publications, were analyzed to gain insights into the discrepancies between legal frameworks and modern psychiatric understandings of mental illness. This approach was chosen as it enables a comprehensive exploration of diverse perspectives and existing knowledge. However, the reliance on secondary data limits the research's ability to incorporate firsthand accounts or empirical observations, which could provide a more nuanced understanding of the issue

DISCUSSION & ANALYSIS

The M'Naghten Rule's Limitations

The "right and wrong" test, established in the M'Naghten case, is a cognitive test that focuses solely on whether the defendant understood the nature and wrongfulness of their actions. This test fails to account for the impact of mental disorders on behavior, particularly in cases where an individual's ability to control their actions is impaired. Some defendants may understand that an act is wrong but be unable to stop themselves from committing it (Asokan, 2016).

The Need for Volitional Control

A more comprehensive test would consider volitional control and the concept of irresistible impulse. This would acknowledge that some individuals with mental illness may have a diminished ability to conform their conduct to the law, even when they understand that their actions are wrong. The sources indicate that the M'Naghten test neglects this aspect of mental illness (Asokan, 2016).

Diminished Responsibility

The concept of diminished responsibility, which exists in English criminal law, allows for a partial defense in murder cases, meaning that the defendant may be found guilty of manslaughter instead of murder if they had impaired mental functioning. The sources suggest that a similar change could be made to Section 84 of the Indian Penal Code (Arakeri, 2020).

The Artificiality of the "Right and Wrong" Test

The "right and wrong" test requires psychiatrists to act as experts in morality, which is outside of their expertise. This may require them to artificially mold scientific concepts to fit into the language of the legal code. The emphasis on cognition without volitional considerations also results in artificial and confusing testimony (Asokan, 2016).

A Move to the ALI Test

The American Law Institute (ALI) Model Penal Code test, which has been adopted in some jurisdictions, offers a potential path forward by considering whether a defendant "lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of the law.". This formulation incorporates both cognitive and volitional elements, and a move towards this, or a similar, approach might produce fairer outcomes (Harrison, 2019).

The Insanity Defense Reform Act

The sources indicate that the Insanity Defense Reform Act of 1984 introduced stricter qualifications to the insanity defense, requiring that the mental illness be "severe" and that it prevented the defendant from appreciating the nature and quality or wrongfulness of their actions. This shows that the legal profession is aware of the need for reform, although such reforms have been seen as restrictive (Harrison, 2019).

Reforms in other Jurisdictions

Several sources note that some jurisdictions have experimented with the insanity defense, either by abolishing it or by replacing it with a mens rea defense (Arakeri, 2020). Some of these abolitions have been overturned due to due process considerations. These instances highlight the importance of considering different legal approaches and standards for the insanity defense and are useful when constructing future reforms (Harrison, 2019).

The Need for Standardized Evaluation Procedures

A critical aspect of reform is to establish consistent and standardized evaluation procedures for assessing the insanity defense. This includes using structured interviews, behavioral observations, and validated assessment tools. One source notes that, in India, no such standardized procedures exist (Arakeri, 2020).

CONCLUSION

Reforming the insanity defense requires a shift away from a purely cognitive focus toward a more comprehensive approach that considers both cognitive and volitional aspects of mental illness. The M'Naghten rule, while historically significant, does not reflect current psychiatric understanding of mental disorders and that jurisdictions should consider introducing a partial defense of diminished responsibility, along with more comprehensive assessments of a defendant's mental state and capacity. Such reforms would lead to a fairer, more just, and more effective legal system for those with severe mental disorders.

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